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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of	)	
	)	
Amendment of Part 90 of the	)	
Commission's Rules to Adopt	)	PR Docket No. 93-61
Regulations for Automatic	)	RM 8013
Vehicle Monitoring Systems	)	

TO: The Commission

COMMENTS OF THE INTERAGENCY GROUP

The Interagency Group (i.e., the New Jersey Highway Authority, the New Jersey Turnpike Authority, the New York State Thruway Authority, the Pennsylvania Turnpike Commission, the Port Authority of New York and New Jersey, the South Jersey Transportation Authority, and the Triborough Bridge and Tunnel Authority)

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SUMMARY

Although the Interagency Group supports the Commission's issuance of permanent rules promoting the continued development of AVM systems and applications, it believes the Commission's proposed rules would inhibit, rather than enhance, the rapid progress being made toward a diverse and competitive AVM service marketplace in which users can choose among a variety of systems to obtain the one best suited to their needs.

The major problem with the NPRM is that the Commission has allowed interference disputes between providers of different AVM systems to overshadow the needs of AVM service users in shaping its proposed rules.

The Commission's proposal to segregate the 902-928 MHz band for separate allocations to "narrow-band" and "wide-band, pulse-ranging" AVM systems is an excessive response to the interference

Apart from misplacing the interests of AVM service providers above those of AVM service users, the Commission's proposed rules fail to address the public interest in meeting the special needs of government and quasi-government entities, such as the members of the Interagency Group, who are implementing plans for large-scale, publicly-funded AVM services consistent with Congressional mandates for environmentally sound and economically efficient transportation systems.

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which has the potential for serving over 1 million regular users in their region.[1]

II. The Commission should prescribe permanent AVM rules that will provide maximum flexibility for all users to make cost-effective, performance-based choices among competing AVM systems.

In proposing to rename and redefine the AVM service as the "Location and Monitoring Service" ("LMS"), the Commission clearly recognizes that "automatic vehicle monitoring" ("AVM") service is but one of a variety of related services that seek to use the same limited spectrum for different public and private purposes.[2]

But instead of shaping its proposed new regulatory framework to accomodate the diverse interests of users of such services, the

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[1] The E-ZPass Plan, which was initiated in June 1990, calls for eventual implementation of electronic toll collection at all

Commission appears to be basing its rulemaking decisions on the self-serving perspectives of existing service providers. Such a perspective cannot advance the Commission's goal of promoting a competitive service marketplace, since the interest of existing providers lies in limiting supply options for users, rather than in expanding them.

The primary example of this problem in the NPRM is the Commission's tentative proposal to begin licensing "narrow-band" and "wide-band pulse-ranging" AVM systems on separate frequency bands. The basis for this proposal is the claim by some operators and developers of "wide-band pulse-ranging" systems that "narrow-band" AVM systems currently being licensed in the same spectrum as pulse-ranging systems generate intolerable co-channel noise levels that can render all or part of a pulse-ranging system useless. NPRM at paragraphs 12-14.

The Commission's tentative response to this interference argument is highly questionable for a number of reasons. For one thing, the extent to which this kind of disabling interference is actually occurring, and is the fault of the blamed "narrow-band" systems rather than of deficiencies in the complaining "wide-band pulse-ranging" systems, is hotly disputed. Id. For another, it is not at all clear that the current "coordination" requirements for resolving such interference problems under the Commission's rules are inadequate. Although a fair and amicable accomodation seems to have eluded two of the participants in this proceeding who have

debated the interference issue by reference to problems experienced with some of their respective operating systems, the exchange of rebuke and recrimination between these parties hardly justifies the Commission in proposing a scheme of segregation which has serious implications far beyond resolving or avoiding such disputes.

More importantly, however, the Commission's unquestioning acceptance of the "wide-band" and "narrow-band" distinction as a framework for its proposed AVM service allocation and licensing schemes represents an unwarranted concession to private interests of certain AVM providers and flies in the face of the practical needs of current and future users of major AVM systems, such as the Interagency Group's E-ZPass Plan.

If a system requires only a single transmitter to be located at a given site, and that transmitter requires more or less than 1 MHz bandwidth, then the system can be defined as either "wide-band" or "narrow-band," respectively. However, an AVM system that

makes it difficult, and potentially impossible, for manufacturers utilizing frequency discrimination techniques to offer ETTM systems for use at multi-lane toll plazas. Because the same technology must be used at all toll plazas in a system, regardless of their size, this framework could entirely preclude such technology from being used. If the use of such technology cannot even be considered, users such as the Interagency Group will be arbitrarily denied the range of options required to make a cost-effective, performance-based choice.[3]

Distinguishing AVM systems by use of restrictive bandwidth definitions simply does not reflect the application and operation of such systems in the real world. As it has been proposed in the NPRM, the distinction limits the options of system users and favors those who want to shape the regulatory landscape for AVM services to maximize the advantage of current providers over their future competition. Moreover, it is not a proper basis for Commission allocation policy because it fails to take into account frequency requirements, service demand, system capacity and compatibility requirements, and other important user and spectrum efficiency considerations.

When it issued its NPRM, the Commission lacked an adequate record to fully consider interference issues and the implications

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[3] ETTM systems using frequency discrimination are currently deployed in Texas, Louisiana, Oklahoma, New York and New Jersey, and are being considered by the Interagency Group for its "E-ZPass" regional toll collection system.

and "offended" parties to share equal responsibility for resolving such problems. The Commission should not, however, address interference problems by arbitrarily partitioning the frequency bands.[4]

The Interagency Group believes that AVM systems generally present only minimal interference risks to other licensees because they are designed for low power output and limited range. To the extent the Commission wants to explore a categorical basis for making regulatory distinctions between different kinds of AVM systems, a focus on "long-range" and "short-range" services would reflect a more meaningful and accurate distinction than does the proposed division into "narrow-band" and "wide-band" systems. Toll plaza collection constitutes a "short-range" service for which certain systems otherwise distinguished as "narrow-band" and "wide-band" could nevertheless be equally suited, assuming that appropriate geographical separation is provided to minimize the

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[4] Despite its support of a flexible approach to use of the spectrum which is being designated for AVM use, the Interagency Group opposes Radian Corporation's proposal to allocate 915 MHz for an experimental wind profiler system. See Notice of Proposed Rulemaking and Notice of Inquiry in ET Docket No. 93-59, FCC 93-136, adopted March 10, 1993. As other commenters have observed, adoption of the proposal would be premature because of the lack of technical standards for 900 MHz wind profilers and "insufficient information" regarding the potential impact of such an allocation on AVM and other current users of that band. It would also appear to be unnecessary because satisfactory spectrum in the 448-450 MHz band can be allocated to wind profilers on a co-primary basis. The Interagency Group is concerned, however, that wind profilers are likely to be operating in close proximity to AVM systems in toll plazas adjacent to airport parking lots and security areas, where

interference potential between installations.

III. The Commission's permanent AVM service rules should address the special needs of Government and quasi-Government entities that are implementing systems like the E-ZPass Plan.

Although the Interagency Group believes that the Commission should carefully consider the diverse interests of all current and potential AVM service users in shaping its AVM service rules, the Interagency Group urges the Commission to separately address the special needs and obligations of entities like the members of the Interagency Group in their efforts to implement large-scale, public AVM services such as the E-ZPass Plan.

Government and quasi-governmental entities like the members of the Interagency Group are not entrepreneurs spending private capital to fund profit-making ventures in pursuit of their own proprietary interests. Rather, they are repositories of public trust and responsibilities, investing user fees into public services pursuant to political and legal mandates designed to protect and promote the public interest.

The implementation of ETTM systems like the E-ZPass Plan is a national policy goal established by Congress in the Intelligent Vehicle Highways Systems Act of 1991, P.L.102-240, 23 U.S.C. Section 307 note, to enhance the capacity, safety and efficiency of America's highways; reduce air pollution, energy consumption, and traffic congestion; and, promote American industrial and

economic competitiveness.[5]

In support of the goal of creating ETTM and other "advanced traffic management systems" pursuant to the overall program for "intelligent vehicle-highway systems" ("IVHS"), Congress has authorized more than $113 million annually through 1997 in funds from the Highway Trust Fund. See P.L.102-240, Section 6058(a) and (b).[6]

As previously noted, the States of New Jersey, New York and Pennsylvania have made a $95 million capital commitment through 1996 for the implementation of the E-ZPass Plan. Similar, though less ambitious, systems are already operating in New York, Texas, Louisiana, Colorado and Oklahoma, and other ETTM plans or systems are under development in Massachusetts, California, Florida, Ohio, Illinois, Georgia, Virginia and New Hampshire. The success of these pioneering efforts, and especially the regional E-ZPass Plan, will

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[5] In New Jersey, for example, deployment of ETTM systems is an important component of that State's implementation plan for compliance with the requirements of the federal Clean Air Act.

[6] In addition to their participation in the E-ZPass Plan for electronic toll collection, five of the Interagency Group's seven member agencies are also members of TRANSCOM, a transportation operations coalition of fifteen agencies in New York, New Jersey and Connecticut. Through TRANSMIT, an IVHS operational test being funded by the Federal Highway Administration, TRANSCOM will test the same frequencies and compatible equipment being used for toll collection to demonstrate the value of this technology in traffic management, an important ancillary function. Specifically, sixty miles of limited access highways will be equipped with roadside readers that will enable remote incident detection through tracing the movement of tagged vehicles. Remote incident detection reduces response time with resulting benefits in safety, convenience, and air quality. The first fifteen-mile segment of the TRANSMIT test will enter the implementation stage in August.

undoubtedly spawn additional ETTM systems, including another multi-jurisdictional effort in the New England region.

In addition to facilitating a competitive AVM marketplace, with a continuing opportunity for these public ETTM service users to make cost-effective, performance-based choices from among the newest and best AVM systems and providers, the Commission's new AVM service rules can include more specific measures that would help to promote and protect the massive investment of public funds required for the E-ZPass Plan and other large-scale ETTM projects. The following interrelated proposals, which should be considered and prescribed in combination, are particularly important:

1. Extended implementation, or "build-out," schedules for ETTM and other public service AVM systems: Large, complex AVM projects like the E-ZPass Plan have special "build-out" problems because they require multiple sites and multiple readers at single sites. If the Commission adopts its proposal to retain the eight-month construction and placed-in-operation requirement for AVM services, NPRM at paragraph 26, the Commission should affirmatively provide that public AVM service projects like the E-ZPass Plan qualify for extended 5-year "build-out" periods according to the standards and procedures in the Commission's recently-revised "slow-growth" rules for granting extended implementation periods to Part 90 licensees. 47 C.F.R. Section 90.629. See Report and Order, PR Docket No. 92-

210, FCC 93-256 ("Extended Implementation"), adopted May 13, 1993.[7]

2. Co-primary status for ETTM and other public service AVM licensees: Although AVM systems generally cause no interference to primary frequency users and are able to easily resolve any problems where they arise, the possibility of interference does exist and the secondary status of AVM licensees creates a serious concern which inhibits the deployment of projects like the E-ZPass Plan. For such projects, users like the Interagency Group must consider whether they should conduct field measurements at every potential

least be assured that AVM sites which do not cause interference to existing users would not subsequently be subject to displacement or interruption.

3. Blanket license authorizations for multi-jurisdictional or regional ETTM and other public service AVM systems: In order to ensure that necessary frequencies will be available when required during a lengthy build-out schedule, the Commission should devise a special blanket license authorization procedure for systems used in projects like the E-ZPass Plan. Such authorizations would not raise "warehousing" concerns because these licensees are public service system operators, not private entrepreneurs. In any event, a reasonable deadline for implementation could still be enforced through extended implementation schedules, with the cancellation of frequencies that are not ultimately used.

CONCLUSION

The Interagency Group urges the Commission to retain its current "shared spectrum" approach and to adopt AVM service rules that provide regulatory predictability without eliminating the market flexibility required for the continuing development of AVM products and applications. In addition, the Interagency Group urges the Commission to adopt special public interest rules to expressly provide for the co-primary status, extended "build-out" schedules, blanket license authorizations, and other special considerations necessary to facilitate the implementation of massive, multi-

jurisdictional public service AVM projects, such as the E-ZPass Plan.

Respectfully Submitted,

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June 29, 1993

CERTIFICATE OF SERVICE

I, Sandra Sachs, a secretary with the law firm of Cohn and Marks, do hereby certify that a copy of the foregoing "Comments of the Interagency Group" was mailed first class, postage prepaid, this 29th day of June, 1993 to the following:

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